



10-28-09

DAC ✓

Attorney Docket No. 077843.0113

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: : U.S. Patent No. 5,451,233 (U.S.S.N. 08/208,972)
Issued: : September 19, 1995 Regulatory Approval Product: XIENCE™ V EECSS
Inventors : Paul G. Yock
For : Angioplasty Apparatus Facilitating Rapid Exchanges

**SECOND REQUEST FOR INTERIM EXTENSION OF PATENT TERM PURSUANT
TO 35 U.S.C. § 156(e)(2) AND 37 C.F.R. § 1.760 DURING PENDENCY OF PREVIOUSLY
FILED PATENT TERM EXTENSION APPLICATION**

Express Mail No.: ED 762060887 US

Mail Stop: Hatch-Waxman PTE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant respectfully requests pursuant to 35 U.S.C. §156(e)(2) and 37 C.F.R. §1.760, an interim extension of the term of U.S. Patent 5,451,233 ("the '233 Patent") during pendency of the previously filed application for patent term extension pursuant to §156 and 37 C.F.R. §1.740 et al.

A formal application for extension of the term of the '233 Patent, believed to be in full compliance with 37 C.F.R. § 1.740, was filed by Applicant on July 25, 2008. The '233 Patent was initially set to expire on October 29, 2008. A first interim extension of patent term pursuant to 35 U.S.C. §156(e)(2) was granted on October 10, 2009, extending the term of the '233 Patent one year, i.e., to October 29, 2009.

Although processing of the application for patent term extension is in progress, it is believed

that the final determination and grant of the extension will not occur before October 29, 2009. Therefore, this request is being made for a second interim extension of up to one year, or until final disposition of the application for patent term extension is made, if earlier. It is believed that Applicant is entitled to an extension beyond October 29, 2010, thus the ultimate term of the '233 Patent will be in excess of the one year interim extension requested herein.

Please charge the fee for this second application for interim extension required by 37 C.F.R. § 1.20(j)(3), to Deposit Account 02-4377, (Order No. 077843.0113). No additional fee is believed due; however, if an additional fee is due, please charge the additional fee to the above Deposit Account.

Date: October 26, 2009

Respectfully submitted,



Daniel J. Hulseberg
Patent Office Reg. No. 36,554

Attorneys for Applicant
Customer No. 62,614
BAKER BOTTS L.L.P.
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Application No. (if known): 08/208,972

Attorney Docket No.: 077843.0113

Certificate of Express Mailing Under 37 CFR 1.10

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail No. **ED 762060887 US** in an envelope addressed to:

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on October 26, 2009
Date

Signature

Jason C. Chumney

Typed or printed name of person signing Certificate

54,781
Registration Number, if applicable

212-408-2500
Telephone Number

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

1. Transmittal Form (1 page)
2. Fee Transmittal (1 page)
3. Second Request for Interim Extension of Patent Term Pursuant to 35 U.S.C. § 156(e)(2) and 37 C.F.R. § 1.760 During Pendency of Previously Filed Patent Term Extension Application (2 pages)
4. Return Postcard.



PTO/SB/21 (10-07)

Approved for use through 10/31/2007. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	08/208,972 (U.S. Pat. No. 5,451,233)
Filing Date	03/09/1994
First Named Inventor	Paul G. Yock
Art Unit	N/A
Examiner Name	N/A
Attorney Docket Number	077843.0113

ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): - Second Request for Interim Extension of Patent Term; - Certificate of Express Mailing; and - Return Postcard.
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Baker Botts L.L.P.		
Signature			
Printed name	Daniel H. Hulseberg		
Date	10/26/2009	Reg. No.	36,554



Check here if filing by mail

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO, or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	Daniel H. Hulseberg	Date	10/26/2009

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



FEE TRANSMITTAL for FY 2007

Complete if Known

Application Number	08/208,972 (U.S. Pat. No. 5,451,233)
Filing Date	03/09/1994
First Named Inventor	Paul G. Yock
Examiner Name	N/A
Art Unit	N/A
Attorney Docket No.	077843.0113

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 220

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit
Account
Number
Deposit
Account
Name

02-4377

Baker Botts L.L.P.

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

Extra Claim Fees

	Extra Claims	Fee	Fee Paid
Total Claims	<input type="text"/>	x 52 =	<input type="text"/> \$0
Independent Claims	<input type="text"/>	x 220 =	<input type="text"/> \$0
Multiple Dependent	<input type="text"/>	=	<input type="text"/> \$0

SUBTOTAL \$0

Fee Description	Large Entity	Small Entity
Claims in excess of 20	<input type="text"/> 52	<input type="text"/> 26
Independent claims in excess of 3	<input type="text"/> 220	<input type="text"/> 110
Multiple dependent claim, if not paid	<input type="text"/> 390	<input type="text"/> 195

FEE CALCULATION (continued)

ADDITIONAL FEES

<input type="checkbox"/>	Surcharge - late oath or filing fee	<input type="text"/>
<input type="checkbox"/>	Non-English Specification	<input type="text"/>
<input type="checkbox"/>	Extension for reply within first month	<input type="text"/>
<input type="checkbox"/>	Extension for reply within second month	<input type="text"/>
<input type="checkbox"/>	Extension for reply within third month	<input type="text"/>
<input type="checkbox"/>	Extension for reply within fourth month	<input type="text"/>
<input type="checkbox"/>	Extension for reply within fifth month	<input type="text"/>
<input type="checkbox"/>	Notice of Appeal	<input type="text"/>
<input type="checkbox"/>	Filing a brief in support of an appeal	<input type="text"/>
<input type="checkbox"/>	Petition to revive - unavoidable	<input type="text"/>
<input type="checkbox"/>	Petition to revive - unintentional	<input type="text"/>
<input type="checkbox"/>	Utility Issue Fee	<input type="text"/>
<input type="checkbox"/>	Design Issue Fee	<input type="text"/>
<input type="checkbox"/>	Publication Fee	<input type="text"/>
<input type="checkbox"/>	Petitions to the Commissioner	<input type="text"/>
<input type="checkbox"/>	Request for Continued Examination (RCE)	<input type="text"/>
<input type="checkbox"/>	Information Disclosure Statement (IDS)	<input type="text"/>

Other fee - \$220

SUBTOTAL (\$) 220

SUBMITTED BY

(Complete if applicable)

Name (Print/Type)	Daniel H. Hulseberg	Registration No. (Attorney/Agent)	36,554	Telephone	212-408-2500
Signature		Date	10/26/2009		

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.